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Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Question of Western Sahara

Report of the Secretary-General

Summary

The present report, submitted pursuant to General Assembly resolution 58/109 of 9 December 2003, summarizes the reports that have been submitted by the Secretary-General to the Security Council on the situation concerning Western Sahara from 1 July 2003 to 30 June 2004.

* A/59/50 and Corr.1.

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1. On 9 December 2003, the General Assembly adopted, without a vote, resolution 58/109 on the question of Western Sahara. The Secretary-General, in close cooperation with the Chairperson of the Commission of the African Union, has continued to exercise his good offices with the parties concerned. The present report, which covers the period from 1 July 2003 to 30 June 2004, is submitted in accordance with paragraph 9 of resolution 58/109.

2. On 31 July 2003, the Security Council adopted resolution 1495 (2003), by which it extended the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 31 October 2003. Under that resolution, the Council, inter alia, continued to support strongly the efforts of the Secretary-General and his Personal Envoy, James A. Baker III, and then Peace Plan for Self-determination of the People of Western Sahara (S/2003/565, annex II) as an optimum political solution on the basis of agreement between the parties; called upon the parties to work with the United Nations and with each other towards acceptance and implementation of the Peace Plan; called upon the parties and the States of the region to cooperate fully with the Secretary-General and his Personal Envoy; and requested the Secretary-General to provide a report on the situation before the end of October 2003 that would contain progress made in the implementation of the resolution.

3. Pursuant to the above-mentioned resolution, the Secretary-General submitted to the Security Council, on 16 October 2003, a report on the situation concerning Western Sahara (S/2003/1016) in which he informed the Council that the Kingdom of Morocco had on 17 September 2003 sent a high-level delegation to meet with his Personal Envoy. During the meeting, Morocco had asked for more time to reflect and consult before giving its final response to the operative paragraphs of Council resolution 1495 (2003), in particular the second, in which the Council had called upon the parties to work with the United Nations and with each other towards acceptance and implementation of the Peace Plan.

4. In his report, the Secretary-General also informed the Security Council that following the appointment of William Lacy Swing (United States of America) as his new Special Representative for the Democratic Republic of the Congo, on 5 August 2003 he had informed the President of the Council of his intention to appoint Alvaro de Soto (Peru) as his Special Representative for Western Sahara.

5. In concluding his report, the Secretary-General recalled that by its letter of 6 July, the Frente POLISARIO had officially accepted the Peace Plan. He also added that he had acceded to Morocco's request to give it more time to reflect and consult before giving its final response.

6. On 28 October 2003, the Security Council adopted resolution 1513 (2003), in which it extended the mandate of MINURSO until 31 January 2004 and requested the Secretary-General to provide a report on the situation by the end of the mandate.

7. Pursuant to resolution 1513 (2003), the Secretary-General submitted to the Security Council on 19 January 2004 a report on the situation concerning Western Sahara (S/2004/39), in which he informed the Council that his Personal Envoy had had a further meeting, on 23 December 2003, with a Moroccan delegation to discuss issues pertaining to Morocco's final response to the operative paragraphs of resolution 1495 (2003) of 31 July 2003.

8. In his report, the Secretary-General also informed the Security Council that on 29 October 2003, his new Special Representative for Western Sahara, Alvaro de Soto, had assumed his duties in Laayoune. In November 2003, he had visited Rabat, Tindouf, Algiers and Nouakchott, where he had held introductory meetings with senior officials from the Government of Morocco, the Frente POLISARIO, the Government of Algeria and the Government of Mauritania.

9. In concluding his report, the Secretary-General stated that following the discussions that his Personal Envoy had had with the delegation of Morocco on 23 December 2003, he was of the view that the mandate of MINURSO should be extended to allow his Personal Envoy to consult further with Morocco on its final response to the Peace Plan.

10. On 30 January 2004, the Security Council adopted resolution 1523 (2004), in which it extended the mandate of MINURSO until 30 April 2004 and requested the Secretary-General to provide a report on the situation before the end of the mandate.

11. Pursuant to the above-mentioned resolution, the Secretary-General submitted to the Security Council, on 23 April 2004, a report on the situation concerning Western Sahara (S/2004/325 and Add.1), in which he informed the Council that his Personal Envoy had held two meetings with delegations from Morocco, on 2 April and 15 April 2004, and a meeting with a delegation from the Frente POLISARIO, on 31 March 2004. During the 15 April meeting, Morocco had delivered its final response to the Peace Plan, as an enclosure to a letter dated 9 April 2004 from the Minister for Foreign Affairs and Cooperation of Morocco (S/2004/325 and Add.1, annex I).

12. In his report, the Secretary-General also stated that, as the Council would recall, by its resolution 1495 (2003), which had been adopted unanimously, the Council had expressed its support for the Peace Plan as an optimum political solution on the basis of agreement between the parties. The Council had also called upon the parties to work with the United Nations and with each other towards acceptance and implementation of the Peace Plan. However, while Morocco's final response to the Peace Plan had expressed a willingness to continue to work to achieve a political solution to the conflict over Western Sahara, it had also clearly stated that an "autonomy-based political solution can only be final", which had adverse implications for self-determination, as called for in resolution 1429 (2002).

13. In his report, the Secretary-General further informed the Security Council that in February 2004, he had asked his Special Representative for Western Sahara, Alvaro de Soto, to head his mission of good offices in Cyprus, in the capacity of Special Adviser on Cyprus. In the meantime, the Force Commander of MINURSO, Major General Gyorgy Száraz (Hungary), had been acting as Officer-in-Charge of the Mission.

14. In concluding his report, the Secretary-General observed that it was clear from past actions by the Security Council and its debates on the issue that there was opposition to a non-consensual solution to the conflict over Western Sahara. Further, in his view, and that of his Personal Envoy, Morocco's final response to the Peace Plan would have required the parties involved to agree to negotiate a solution for Western Sahara based on "autonomy within the framework of Moroccan sovereignty". The issue of sovereignty was, of course, the fundamental issue that had divided the parties for all these years. The Secretary-General added that given

the history and those facts, in his view and in the view of his Personal Envoy, this realistically left only two options for the Council to consider. Option one would have been to terminate MINURSO and return the issue of Western Sahara to the General Assembly, thereby recognizing and acknowledging that, after the passage of more than 13 years and the expenditure of more than $600 million, the United Nations was not going to solve the problem of Western Sahara without requiring that one or both of the parties should do something that they would not voluntarily agree to do. Option two would have been to try once again to induce the parties to work towards acceptance and implementation of the Peace Plan.

15. The Secretary-General concluded that it was his view and that of his Personal Envoy that the Peace Plan still constituted the best political solution to the conflict over Western Sahara that provided for self-determination, as required by paragraph 1 of Security Council resolution 1429 (2002). He had therefore hoped that the Council would reaffirm its recent unanimous support for the Peace Plan and would once again call upon the parties to work with the United Nations and each other towards acceptance and implementation of the Peace Plan.

16. On 29 April 2004, the Security Council adopted resolution 1541 (2004), in which it reaffirmed its support for the Peace Plan as an optimum political solution on the basis of agreement between the two parties; also reaffirmed its strong support for the efforts of the Secretary-General and his Personal Envoy towards achieving a mutually acceptable political solution to the dispute over Western Sahara; called upon all the parties and the States of the region to cooperate fully with the Secretary-General and his Personal Envoy; decided to extend the mandate of MINURSO until 31 October 2004; and requested that the Secretary-General provide a report on the situation before the end of the present mandate including an evaluation of the mission size necessary for MINURSO to carry out its mandated tasks, with a view towards its effecting possible reduction.

17. On 15 June 2004, the Secretary-General sent a letter to the President of the Security Council (S/2004/492) referring to his letter of 17 March 1997 (S/1997/236), in which he had informed the Council of his decision to appoint Mr. James A. Baker III as his Personal Envoy for Western Sahara to help him assess the situation and make recommendations in regard to all questions related to the impasse in the implementation of the Settlement Plan. During the seven years that Mr. Baker had served as his Personal Envoy, he had held 14 formal and numerous informal meetings with the parties, Morocco and the Frente POLISARIO, and the neighbouring countries Algeria and Mauritania, and had proposed a number of possible approaches to solving the conflict. While progress had been made, the parties had not been able to reach an agreement. In that connection, Mr. Baker had informed the Secretary-General that he believed that he had done all he could on that issue and therefore offered his resignation as Personal Envoy. The Secretary-General informed the Council that it was with deep regret that he had accepted Mr. Baker's resignation.

18. In the same letter, the Secretary-General had further informed the Security Council that he had decided that Mr. Alvaro de Soto, in his capacity as the Special Representative of the Secretary-General for Western Sahara, would continue to work with the parties, and neighbouring countries, in pursuit of a just, lasting and mutually acceptable political solution, which would provide for the self-

determination of the people of Western Sahara in the context of arrangements consistent with the purposes and principles of the Charter of the United Nations.

19. With regard to the activities of the Identification Commission, during the period covered by this report, from 1 July 2003 to 30 June 2004, the Secretary-General informed the Security Council that the Commission had successfully completed its overall work plan, including the scanning, archiving and transfer of all of its identification files and sensitive documents to the United Nations Office at Geneva, where they were now safely stored. The Commission had also finalized all studies related to its activities. As a result, the last staff of the Commission had completed their assignments with MINURSO on 31 December 2003. However, the authorized posts for the Commission had been kept in the proposed budget for the financial year 2004-2005, in order to expedite the recruitment of expertise for MINURSO should the need arise.

20. As to military matters, during the period covered by this report, the Secretary-General informed the Security Council that the Frente POLISARIO had continued to impose some limitations on the freedom of movement of MINURSO in areas of the Territory east of the berm. Although the nature of those limitations had not significantly affected the ability of MINURSO to monitor the situation in those areas, their removal would have further facilitated the Mission's ground and air patrolling activities.

21. Concerning the issue of prisoners of war and persons unaccounted for, during the period covered by this report, the Secretary-General reported to the Security Council that, on 1 September 2003, the International Committee of the Red Cross (ICRC) had repatriated to the Kingdom of Morocco 243 Moroccan prisoners of war who had been released by the Frente POLISARIO on 14 August 2003 in response to a request by a Member State. On 7 November 2003, the Frente POLISARIO had announced the release of a further 300 Moroccan prisoners of war, who were repatriated to Morocco on the following day under the auspices of ICRC. This was the largest group of Moroccan prisoners ever liberated. On 13 February 2004, the Frente POLISARIO had announced the release of a further 100 Moroccan prisoners of war, who were subsequently repatriated to Morocco under the auspices of ICRC.

22. The Secretary-General also reported some progress concerning the determination of the fate of persons unaccounted for. From 27 to 29 May 2004, ICRC had interviewed four individuals in the Territory who had appeared on a Frente POLISARIO list of persons unaccounted for; the four were subsequently removed from the list.

23. The Secretary-General stated that, while he welcomed the progress made, 514 such prisoners were still in detention, some of them for more than 20 years. He therefore reiterated his call to the Frente POLISARIO to expedite the release of all remaining prisoners, in compliance with international humanitarian law and numerous Security Council resolutions and statements by the President of the Council. He also called upon both Morocco and the Frente POLISARIO to continue to cooperate with ICRC in accounting for those who were still missing in relation to the conflict.

24. With regard to the work of the Office of the United Nations High Commissioner for Refugees (UNHCR) in the area, during the period covered by this report, the Secretary-General informed the Security Council that while the food

pipeline for the Western Saharan refugees had remained relatively stable throughout most of 2003, shortages of relief aid at the beginning of 2004 had continued to cause acute and chronic malnutrition among the Western Saharan refugees in the Tindouf area.

25. The World Food Programme (WFP) and UNHCR had undertaken a joint assessment mission to the Tindouf area refugee camps in January 2004. Representatives of nine Member States, both current and potential donors, had also taken part in the assessment. The Secretary-General reported that, despite improvements in recent months due to increased donor support, the food situation in the refugee camps had remained unstable. Unless additional relief supplies were made available, refugees might start facing a shortage of cereals in May 2004, and a shortage of other essential commodities a month later. Urgent contributions to UNHCR and WFP assistance programmes were therefore required in order to overcome the foreseen shortages. The Secretary-General had called upon the donor community to respond generously to these appeals.

26. During the period covered by this report, the Secretary-General also informed the Security Council that UNHCR and MINURSO had been promoting with the parties a package of confidence-building measures. From 2 to 5 October 2003, a UNHCR delegation, accompanied by a representative of MINURSO, had visited Rabat, Algiers and Tindouf for technical-level discussions. During discussions in Rabat on 2 and 3 October, the Moroccan authorities had stated that, as a matter of sovereignty, the Moroccan postal service would need to be involved in handling mail in the Territory. In that connection, it was recalled that the original plan had envisaged that mail would be collected and distributed by UNHCR.

27. During discussions in Algiers on 4 October, UNHCR had reminded Algeria that it was still awaiting its formal concurrence, as the country of asylum, for the resumption of the UNHCR-operated telephone service between the refugee camps and the Territory. Algeria had reiterated its earlier position that what was acceptable to Saharan representatives would be acceptable to Algeria, within the limits of its responsibilities as the country of asylum.

28. In its discussions with the UNHCR delegation, the Frente POLISARIO had expressed its readiness to resume the UNHCR telephone service and to start the mail service under the terms of the UNHCR confidence-building measures. This had represented progress in regard to the telephone service, as Morocco had maintained its position that it would pursue telephone service under the terms of UNHCR confidence-building measures.

29. The third element of the confidence-building measures, the exchange of family visits, was not in the agenda of the UNHCR delegation given the long-standing disagreement between the parties over the selection criteria for the participants in the exchange. In this connection, it was recalled that the Frente POLISARIO had insisted that only those persons whose names appeared on the MINURSO provisional list of voters should be entitled to benefit from the exchange between the Territory and the refugee camps. Morocco had maintained, on the other hand, that any person in the refugee camps or in the Territory who had a family member on the other side should be entitled to participate in the exchange, regardless of the list. During its discussions with UNHCR, the Frente POLISARIO had indicated that it had changed its view on this issue and was now ready to agree to the immediate exchange of family visits between the Tindouf refugee camps and the Territory,

regardless of the concerned individual's status on the list. It was also recalled that Mauritania had already agreed to the confidence-building project under the terms proposed by UNHCR and had expressed its readiness to fully support its implementation.

30. In the course of November 2003, UNHCR, in close consultation with the Special Representative of the Secretary-General, had submitted to Morocco, the Frente POLISARIO and Algeria, as the country of asylum, a detailed plan of action defining the modalities for the implementation of those measures. Consequently, UNHCR had adjusted its initial plan of action, taking into account the comments, observations and suggestions made by Morocco, the Frente POLISARIO and Algeria, while striving to preserve the overall integrity and humanitarian nature of the project. A new version of the plan of action for the confidence-building measures had been submitted to the parties for their final consideration. In late January and early February 2004, the parties, and Algeria as the country of asylum, had communicated their approval of the revised plan of action.

31. The Secretary-General also informed the Security Council that the first exchange of family visits had commenced successfully on 5 March 2004. Despite some initial complaints by both parties at the outset of the exercise, the exchange of family visits had run smoothly, with the full cooperation of the parties, as well as Algeria, as country of asylum. In the light of the positive developments emerging from the first phase of the family visits, UNHCR, with the full support of MINURSO, hoped to carry on with the programme for an initial period of six months, to be reviewed thereafter in consultation with the parties. The Secretary-General urged the parties to continue to extend their cooperation to UNHCR and MINURSO for the smooth implementation of the family visits. It was his hope that the parties would respond positively to the call of UNHCR to preserve their exclusive humanitarian character. Meanwhile, he appealed to donor countries for urgent contributions for the implementation of family visits, which required a great deal of logistic, monitoring and administrative resources.

32. The Secretary-General further informed the Security Council that the UNHCR-operated telephone connection between the refugee camps in Algeria and the Territory had been re-established on 12 January 2004 and had continued to function. With regard to the mail service between the Territory and the Tindouf area refugee camps, while the Moroccan authorities had notified UNHCR of their wish to pursue discussions in the near future, no significant progress had been achieved. UNHCR remained ready to implement this service in accordance with the modalities it had initially proposed or under any other terms that would ensure the approval of all concerned.